

§ 1436.4

7 CFR Ch. XIV (1–1–11 Edition)

and humidity in these facilities must be able to be regulated to specified conditions required for the commodity requiring storage.

Collateral means the storage structure; the drying, handling, and cold storage equipment; and any other equipment securing the loan.

Commercial facility means any structure, used in connection with or by any commercial operation including, but not limited to, grain elevators, warehouses, dryers, processing plants, or cold storage facilities used for the storage and handling of any agricultural product, whether paid or unpaid. Any structure suitable for the storage of an agricultural product that is in working proximity to any commercial storage operation will be considered to be part of a commercial storage operation.

Commercial storage means the storing of any agricultural product, whether paid or unpaid, for persons other than the owner of the structure, except for family members and tenants or landlords with a share in the eligible facility loan commodity requiring storage.

Crop of economic significance means any insurable facility loan commodity that contributes 10 percent or more of the total expected value of all crops grown by the loan applicant except if the expected liability under the catastrophic level of crop insurance for a crop is equal to or less than the administrative fee for the crop, that crop shall not be economically significant.

Facility loan commodity means corn, grain sorghum, oats, wheat, barley, rice, raw or refined sugar, soybeans, sunflower seed, canola, rapeseed, safflower, flaxseed, mustard seed, crambe, sesame seed, other oilseeds as determined and announced by CCC, dry peas, lentils, or chickpeas harvested as whole grain, peanuts, hay, renewable biomass, and fruits and vegetables (including nuts). Corn, grain sorghum, wheat, and barley are included whether harvested as whole grain or other than whole grain.

Financing statement means the appropriate document that gives legal notice of a security interest in personal property when properly filed or recorded.

Hay means a grass or legume that has been cut and stored. Commonly used grass mixtures include rye grass,

timothy, brome, fescue, coastal Bermuda, orchard grass, and other native species, depending on the region. Forage legumes include alfalfa and clovers.

Non-movable or non-salable collateral means either collateral the county committee determines cannot be sold and moved to a new location because of the type of construction involved or because the collateral has deteriorated to the point that it has no sale recovery value.

Renewable biomass means any organic matter that is available on a renewable or recurring basis including renewable plant material such as feed grains or other agricultural commodities (including, but not limited to, soybeans and switchgrass), other plants and trees (excluding old-growth timber), algae, crop residue (including, but not limited to, corn stover, various straws and hulls, and orchard prunings), other vegetative waste material (including, but not limited to, wood waste, wood residues, and food and yard waste) used for the production of energy in the form of heat, electricity, and liquid, solid, or gaseous fuels. Manure from any source is not included.

Resale collateral value means collateral that can be sold and moved to a new location for which compensation equal to the outstanding loan value can be expected.

Satisfactory credit history means a history of repaying debts as they came due unless the failure to repay or tardiness in payment was due to circumstance beyond the applicant's control as determined by CCC upon proof submitted by the applicant.

Severance agreement means an agreement under which a party may consent to the security interest of another in property thereby allowing the severance of a fixture from the real estate.

Subordination agreement means any agreement under which a party may subordinate a security interest in property to the interest of another party.

[66 FR 4612, Jan. 18, 2001, as amended at 67 FR 54938, Aug. 26, 2002; 74 FR 41587, Aug. 18, 2009]

§ 1436.4 Application for loans.

(a) An application for a loan must be submitted:

Commodity Credit Corporation, USDA

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(1) For all loans, except loans for renewable biomass storage facilities and cold storage facilities for fruits and vegetables, to the administrative county office that maintains the records of the farm or farms to which the application applies. With State office approval, loans may be made or serviced by a county office other than the administrative county office.

(2) For loans for renewable biomass storage facilities and cold storage facilities for fruits and vegetables, to the administrative county FSA office that maintains the records of the farm or farms to which the application applies, if the facility will be located on land that has farm records established at the county office. If the commodities will be produced on land that does not have farm records established at the county office, the application must be submitted to the county FSA office that services the county where the facility will be located.

(b) Upon request, the applicant must furnish information and documents as the State or county committee deems reasonably necessary to support the application. This may include financial statements, receipts, bills, invoices, purchase orders, specifications, drawings, plats, or written authorization of access.

(c) For sugar storage facility loans, a loan application must be submitted to the county FSA office that maintains the applicant's records. If no such records exist, loan applications must be submitted to the county office serving the headquarters location of the sugar processor.

(d) Submitting an application does not ensure loan approval nor create any liability on behalf of CCC. Borrowers who authorize delivery, site preparation, or construction actions without an approved loan, do so at their own risk.

[74 FR 41587, Aug. 18, 2009]

§ 1436.5 Eligible borrowers.

(a) *Borrower* means a person who, as landowner, landlord, operator, producer, tenant, leaseholder, sharecropper, or processor of domestically produced sugarcane or sugar beets:

(1) Has a satisfactory credit history according to the definition in §1436.3

and as recommended to the approving committee by a FSA employee with FSA loan approval authority;

(2) Demonstrates an ability to repay the debt arising under this program using a financial statement acceptable to CCC prepared within 90 days of the date of application, as recommended to the approving committee by a FSA employee with FSA loan approval authority;

(3) Has no disqualifying delinquent Federal debt under the Debt Collection Improvement Act of 1996;

(4) Is a producer of a facility loan commodity as determined by CCC;

(5) Demonstrates a need for increased storage capacity as determined by CCC if the applicant is applying for a loan for a storage structure. The Deputy Administrator, Farm Programs, may issue a waiver, if requested, on a case by case basis if a crop share landlord or tenant requests to construct a structure to store commodities produced on the farm but only one of the two wishes to accept loan liability;

(6) Annually provides proof of crop insurance offered under the Federal Crop Insurance Program for insurable crops of economic significance on all farms operated by the borrower in the county where the storage facility is located. Crop insurance or Noninsured Crop Disaster Assistance Program (NAP) coverage, if available, is required on all the commodities stored in the FSFL-funded facility, whether economically significant or not; crop insurance under the Federal Crop Insurance Program may not be available for certain renewable biomass commodities;

(7) Is in compliance with the U.S. Department of Agriculture (USDA) provisions for highly erodible land and wetlands conservation provisions according to 7 CFR part 12;

(8) Demonstrates compliance with any applicable local zoning, land use, and building codes for the applicable farm storage facility structures;

(9) Annually provides proof of flood insurance if CCC determines such insurance is necessary to protect the interests of CCC, and annually provides proof that the structures for which the loan is made has all peril structural insurance;